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COMMITTEE AGAINST TORTURE

Twenty-eighth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 503rd MEETING

Held at the Palais Wilson, Geneva,
on Monday, 29 April 2002, at 10 a.m.

Temporary Chairman: Ms. IZE-CHARRIN
(Representative of the Secretary-General)

Chairman: Mr. BURNS

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.503/Add.1.

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The meeting was called to order at 10.05 a.m.

OPENING OF THE SESSION BY THE REPRESENTATIVE OF THE SECRETARY-GENERAL (item 1 of the provisional agenda)

1. Ms. IZE-CHARRIN (Representative of the Secretary-General, Temporary Chairman) declared the twenty-eighth session of the Committee against Torture open and wished the Committee every success in its work. She congratulated Mr. El-Masry, Mr. Rasmussen, Mr. Yakovlev and Mr. Yu Mengjia on their re-election for a new term of four years, and warmly welcomed the new member, Mr. Fernando Mariño Menéndez, whose qualifications and experience would undoubtedly contribute to the already high quality of the Committee's work. She also paid tribute to Mr. Silva Henriques Gaspar, the outgoing member, for the work he had accomplished over the past four years.

2. One of the important events marking the recently concluded fifty-eighth session of the Commission on Human Rights had been the adoption, after 10 years of negotiations, of a resolution containing the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (E/CN.4/2002/L.11/Add.4). It was a compromise text proposed by the Chairperson of the Working Group responsible for drafting the protocol, Ms. Elisabeth Odio Benito, at the tenth session of the Working Group, in January 2002. The purpose of the protocol was to establish a system of regular visits to places in which persons deprived of their liberty were detained, in order to prevent them from being subjected to torture and other cruel, inhuman or degrading treatment or punishment. The visits would be carried out by a Subcommittee on Prevention of Torture consisting of 10 independent experts, as well as by national bodies to be set up and administered by States parties. In addition to making visits, the Subcommittee would provide advice and assist States parties in setting up national preventive mechanisms. It would also offer them training and technical assistance, and would make recommendations with a view to strengthening the capacity and mandate of the national bodies. To enable the Subcommittee to fulfil its terms of reference, States parties to the protocol undertook to give the Subcommittee unrestricted access to places of detention and to all information concerning the number and location of such places, the number of persons held in them, the treatment of those persons and their conditions of detention. States parties also undertook to grant the Subcommittee the opportunity of holding private interviews with the detainees. The protocol also provided for mechanisms for coordination with the Committee against Torture, and would enter into force after the twentieth ratification. The resolution containing the text of the protocol had been adopted by the Commission on Human Rights, with 29 votes in favour, 10 against and 14 abstentions. It would have to be endorsed by the Economic and Social Council in July 2002 before being submitted to the General Assembly in the autumn of 2002.

3. In his address to the Commission on Human Rights on 12 April 2002, the Secretary-General had referred to the fight against terrorism. He had used that occasion to point out that even the guilty retained certain basic rights, such as those proclaimed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which provided that no one was to be subjected to torture or to cruel, inhuman or degrading treatment or punishment. The Secretary-General had also warned the international community against falling into the trap of thinking that any means were justifiable in pursuit of so vital an

end. Instead of preventing terrorism, such an approach might only encourage it. The Secretary-General's words belonged with those of the statement on that question adopted by the Committee at its previous session, the text of which had been transmitted to States parties to the Convention.

4. The Secretary-General had also noted with satisfaction that on 11 April 2002 the Rome Statute of the International Criminal Court had received its sixtieth ratification. Now ratified by 66 States, it would enter into force on 1 July 2002, and the Court would be operational by 2003.

5. After protracted negotiations in the Third Committee of the General Assembly, the final text of the Durban Declaration and Programme of Action (A/CONF.189/12) had been adopted. The new Anti-Discrimination Unit established in the Office of the High Commissioner for Human Rights had begun to play a leading role in the follow-up to the Durban Conference, and the Office would welcome any contribution the Committee might wish to make to the follow-up process within the framework of its mandate.

6. The first inter-Committee meeting bringing together the chairpersons and representatives of the six treaty bodies would be held at the end of June 2002 and would consider the question of those bodies' methods of work in the context of submission of reports by States parties. The Secretariat would shortly circulate an information document containing an analysis of the question. Harmonization of treaty body procedures and a stocktaking of best practice were desirable objectives and she encouraged members of the Committee to contribute actively to the preparatory process for the meeting and the meeting itself.

7. With regard to the Convention, since the previous session the number of ratifications had increased: Ireland, Lesotho and Mongolia had become States parties, bringing the number of ratifications to 129. Furthermore, Costa Rica and Ireland had made declarations under articles 21 and 22 of the Convention; Uganda had made the declaration under article 21; and Azerbaijan and Mexico had made the declaration under article 22. The total number of countries recognizing the competence of the Committee to receive and consider communications from or on behalf of individuals subject to a State party's jurisdiction was now 48.

SOLEMN DECLARATION BY THE NEWLY ELECTED MEMBERS OF THE COMMITTEE (item 2 of the provisional agenda)

8. Ms. IZE-CHARRIN (Representative of the Secretary-General) invited the newly elected member of the Committee to make the solemn declaration provided for in article 14 of the rules of procedure (CAT/C/3/Rev.3).

9. Mr. Fernando MARIÑO MENÉNDEZ solemnly declared that he would perform his duties and exercise his powers as a member of the Committee against Torture honourably, faithfully, impartially and conscientiously.

ELECTION OF OFFICERS OF THE COMMITTEE (item 3 of the provisional agenda)

10. Mr. MAVROMMATIS nominated Mr. Burns for the office of Chairman.

11. Mr. YAKOVLEV, Mr. GONZÁLEZ POBLETE and Mr. RASMUSSEN supported that proposal.

12. Mr. Burns was elected Chairman by acclamation and took the Chair.

13. The CHAIRMAN recalled that the outgoing members of the Bureau were Mr. González Poblete, Mr. Camara and Mr. Yu Mengjia, Vice-Chairmen, and Mr. El Masry, Rapporteur.

14. At the suggestion of Mr. Mavrommatis, the outgoing members of the Bureau were re-elected by acclamation.

ADOPTION OF THE AGENDA (item 4 of the provisional agenda) (CAT/C/68)

15. Mr. EL MASRY said he would like to be sure that, within the framework of its programme of work, the Committee would have the opportunity to consider the situation in the Arab territories occupied by Israel, since certain events in recent weeks were certainly covered by the provisions of the Convention. He would therefore like the Committee to include in its agenda an item on the "Situation in the occupied territories".

16. Mr. MAVROMMATIS said that the events in question were indeed sufficiently serious to justify the Committee's concerning itself with them, since certain rights guaranteed under the Convention were undoubtedly affected. He suggested that the Committee should consider the matter during the last week of the session, when the report of the fact-finding team established by the Security Council would be available.

17. Ms. IZE-CHARRIN (Representative of the Secretary-General) said that the members of the Committee would also have before them the report of the High Commissioner for Human Rights on the situation in the occupied Palestinian territory submitted pursuant to decision 2002/103 of the Commission on Human Rights (E/CN.4/2002/184).

18. The proposal by Mr. El Masry was adopted.

19. The provisional agenda (CAT/C/68) was adopted.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5)

20. The CHAIRMAN announced that the pre-sessional working group established to deal with new communications had likewise considered proposals for amendments to the rules of procedure in relation to article 22 of the Convention. The Chairman-Rapporteur would give an account of the efforts of the working group, and the draft amendment to the rules of procedure would be submitted to members at a later meeting with a view to its adoption by the plenary Committee.

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 6)

21. Ms. RUEDA CASTAÑON (Secretary of the Committee) said that, since the Committee's previous session, the Secretariat had received the reports listed in the agenda, as well as the third periodic reports of Chile and the Czech Republic. The number of reports overdue was 149, including 37 initial reports.

22. The CHAIRMAN said that, during the session, Mr. Mavrommatis would propose the appointment of a special rapporteur to consider the question of overdue or late reports and that the Committee must look for ways of emerging from the current impasse. If the Committee suddenly received all the reports that were due, it was quite obvious that it would not be able to consider them, but that in no way made of the problem less serious. The Secretary-General had asked the Committee to reflect on the structure of the reports that it requested of States, obviously in the hope of reducing their length, and that might be a good way of encouraging States to honour their obligations under article 19. At the forthcoming meeting of chairpersons of the human rights treaty bodies, the question of the content of periodic reports requested by each of the Committees was to be examined with a view to pooling information common to all of them so that States would not have to repeat it.

23. Mr. RASMUSSEN said that some States had major difficulties in preparing reports. Uganda was one of them: early in the month, on a working mission to Uganda, he had met the Danish Ambassador, who had agreed to give assistance to the Ugandan authorities in drawing up their periodic reports.

24. Mr. MAVROMMATIS said the problem of reports was complicated by the fact that article 19, paragraph 1, of the Convention established an immutable time frame of four years, unlike similar provisions in other instruments, for example article 40 of the International Covenant on Civil and Political Rights, which gave the Human Rights Committee full discretion to establish the reporting period. As a result, when a State with three reports overdue finally submitted one, the only solution would be to consider that report, along with the additional information provided by the delegation, as the sum total of the information that should have been made available to the Committee in all the reports that had been due. The Committee could then set the date of submission of the next report accordingly. Such an approach would solve the problem without going against the Convention.

25. Mr. YAKOVLEV said the Committee had a choice to make. If it decided to consider that a report which had been due for 10 years contained all the information that should have been provided in all the earlier reports, it would in a sense be exonerating States of their obligation to periodically submit reports. It was therefore essential to find a satisfactory solution, and the best course would be to let several members of the Committee reflect on it.

26. Mr. RASMUSSEN stressed the need to make sure that countries fulfilled the reporting obligation they had entered into under article 19. So far, the Committee had confined itself to sending reminders, and it was now time to take a firmer stance. He proposed that the Committee should specify a number of years - 5 or 10, 10 being the maximum - after which, if it had not received a report, it would decide to examine the situation in the country on the basis of reports from various sources and follow its usual procedure, namely it would appoint a rapporteur and a co-rapporteur and invite the State party to be represented by a delegation. He was making a formal proposal.

27. Mr. MAVROMMATIS said he supported the proposal, which was an excellent one. The draft rules of procedure to be submitted to the Committee at the present session provided for the consideration of a report in the absence of a delegation as well as for consideration, together with a delegation, of a country situation in the absence of a report.

28. Mr. de ZAYAS (Petitions team) said that in order to provide guidance to the Committee, he would circulate to members the new rules of procedure of the Human Rights Committee, under which the formula outlined by Mr. Mavrommatis would be used, as from the next session of the Human Rights Committee, in July 2002.

29. Mr. GONZÁLEZ POBLETE said that he had long proposed that the Committee should group reports together in order to put an end to the repetition of legislative provisions from one report to the next. It was also important to revise the general guidelines on the form and content of reports so as to indicate in quite categorical terms that the Committee expected to see in periodic reports an explanation of the specific and practical implementation of the Convention's provisions and not an enumeration of legislative instruments.

30. Mr. MARIÑO MENÉNDEZ said he agreed with Mr. Rasmussen's proposal to consider the situation in a State party in the absence of a report.

31. The CHAIRMAN said that the Committee had a specific proposal before it and suggested that it revert to that proposal at a later meeting, when the working group would have had the time to elaborate specific rules, particularly on the number of years that the Committee was prepared to wait before considering the implementation of the Convention in a country in the absence of a report.

32. It was so decided.

The public part of the meeting rose at 11 a.m.